

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2100

Introduced by Assembly Member Alejo

February 23, 2012

An act to amend ~~Sections 18849, 18880, 18881, 18882, 18884, and 18887~~ *Section 18849* of, and to add Section 18649 to, the Business and Professions Code, relating to athletes, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2100, as amended, Alejo. Athletes: mixed martial arts fighters.

Existing law, the State Athletic Commission Act, creates the State Athletic Commission and makes it responsible for licensing and regulating boxing, kickboxing, and martial arts matches and wrestling exhibitions. Existing law prohibits a promoter from having a proprietary interest in a boxer or mixed martial arts fighter without the approval of the commission. ~~Existing law creates the continuously appropriated Boxers' Pension Fund and requires the commission to establish a pension plan for boxers and to deposit the moneys collected by the pension plan into the fund.~~

This bill would *declare the intent of the Legislature to protect mixed martial arts fighters from exploitive, oppressive, or coercive contracts and to support the establishment of standards to protect these fighters.* This bill would require a promoter to provide ~~specified~~ *a copy of any written agreement with a professional athlete as well as a written and*

~~sworn statements regarding his or her financial interests statement, made under penalty of perjury, that no other agreements between the promoter and athlete with respect to that contest, and a list of any fees charged or reductions in the amount paid to the athlete, to the commission before the promoter can receive compensation from a boxing or mixed martial arts contest. By requiring a statement to be made under penalty of perjury, the bill would expand that crime and would thereby impose a state-mandated local program. The bill would require the commission to establish a professional code of conduct for licensees, would also require the commission to suspend, revoke, or refuse to renew the license of a mixed martial arts promoter who enters into a coercive contract, as defined, with a mixed martial arts fighter, who has been convicted of a felony or a gross misdemeanor other specified crimes, or who has been subject to specified law enforcement actions, investigations, or allegations. This bill would require the commission to establish a professional code of conduct for licensees engaged in certain other actions. This bill would also extend the scope of the Boxers' Pension Plan to include professional mixed martial arts fighters and would rename the fund as the Boxers' and Mixed Martial Arts Fighters' Pension Fund. By providing for new moneys to be deposited in a continuously appropriated fund, the bill would make an appropriation.~~

This bill would also exempt documents provided to the commission by promoters from disclosure to the public based on a finding by the Legislature that these documents contain proprietary business information.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature in enacting this*
- 2 *act to protect mixed martial arts fighters from being subjected to*
- 3 *exploitive, oppressive, or coercive contractual practices that violate*
- 4 *the athletes' freedom to work and their ability to support*

1 *themselves and their families as professional athletes. Therefore,*
2 *it is necessary and appropriate to establish standards to protect*
3 *the rights and welfare of mixed martial arts fighters licensed under*
4 *this chapter.*

5 *SEC. 2. Section 18649 is added to the Business and Professions*
6 *Code, to read:*

7 *18649. To ensure that individuals and entities licensed under*
8 *this act observe common standards of decency, the commission*
9 *shall, in consultation with the Association of Boxing*
10 *Commissioners, establish a professional code of ethical conduct*
11 *for mixed martial arts promoters and fighters. Notwithstanding*
12 *any other provision of this code, the commission shall enforce the*
13 *code of ethical conduct and may suspend, revoke, or refuse to issue*
14 *or renew the license of any mixed martial arts promoter or fighter*
15 *that it finds has violated this code of conduct. Violations of this*
16 *code shall include, but not be limited to, the following:*

17 *(a) Engaging in actions or activities such as acts resulting in*
18 *felony convictions or convictions for crimes involving moral*
19 *turpitude, sexual assault, ethnic or religious slurs, hate speech,*
20 *or obscene language, failing to respond to a subpoena, or incurring*
21 *sanctions imposed by a judge or court of law.*

22 *(b) Entering into a promotional contract with a mixed martial*
23 *arts fighter licensed in the State of California if the contract*
24 *contains one or more coercive provisions. For purposes of this*
25 *section, a coercive contract provision includes, but is not limited*
26 *to, a provision that does any of the following:*

27 *(1) Assigns any exclusive future merchandising rights to a*
28 *promoter for an unreasonable period beyond the term of the*
29 *promotional contract.*

30 *(2) Automatically renews a promotional contract or extends the*
31 *term without good faith negotiation, or extends the term of any*
32 *promotional contract of a fighter who participates in a*
33 *championship contest for a period greater than 12 months beyond*
34 *the existing contract termination period.*

35 *(3) Unreasonably restricts a mixed martial arts fighter from*
36 *obtaining outside sponsorship from a firm, product, or individual.*

37 *(4) Requires a mixed martial arts fighter to relinquish all legal*
38 *claims that the fighter has, or may acquire in the future, against*
39 *the promoter beyond assumption of the risks inherent in the sport*

1 *of mixed martial arts and the fighter's participation in pre and*
2 *post bout events and activities.*

3 *(5) Requires a fighter to grant or waive any additional rights*
4 *not contained in the promotional contract as a condition precedent*
5 *to the fighter's participation in any contest.*

6 *SEC. 3. Section 18849 of the Business and Professions Code*
7 *is amended to read:*

8 18849. (a) No promoter, nor any person having a proprietary
9 interest in the promoter, shall have, either directly or indirectly,
10 any proprietary interest in a boxer or martial arts fighter competing
11 on the premises owned, leased, or rented by the promoter without
12 written approval from the commission.

13 (b) No promoter shall be entitled to receive any compensation
14 directly or indirectly in connection with a contest until the promoter
15 provides to the commission the following:

16 (1) A copy of any written agreement to which the promoter is
17 a party with any professional athlete or contestant licensed under
18 this act.

19 (2) A statement, made under penalty of perjury, that there are
20 no other agreements, written or oral, between the promoter and
21 the athlete with respect to that contest.

22 (3) All fees, charges, and expenses that will be assessed by or
23 through the promoter on the athlete participating in the event,
24 including any portion of the athlete's purse that the promoter will
25 receive.

26 (4) Any reduction in the athlete's purse contrary to a previous
27 agreement between the promoter and the athlete.

28 (c) Neither the commission nor any person acting on its behalf
29 may disclose to the public any agreement furnished by a promoter
30 under this section except to the extent required to comply with an
31 order in a legal, administrative, or judicial proceeding.

32 *SEC. 4. The Legislature finds and declares that Section 3 of*
33 *this act, which amends Section 18849 of the Business and*
34 *Professions Code, imposes a limitation on the public's right of*
35 *access to the meetings of public bodies or the writings of public*
36 *officials and agencies within the meaning of Section 3 of Article*
37 *I of the California Constitution. Pursuant to that constitutional*
38 *provision, the Legislature makes the following findings to*
39 *demonstrate the interest protected by this limitation and the need*
40 *for protecting that interest:*

1 *The Legislature finds and declares that the limitation upon the*
2 *disclosure of contracts between promoters and mixed martial arts*
3 *fighters is necessary to protect proprietary business and trade*
4 *secret information.*

5 SECTION 1. ~~Section 18649 is added to the Business and~~
6 ~~Professions Code, to read:~~

7 ~~18649. (a) The commission shall revoke or refuse to renew~~
8 ~~the license of any mixed martial arts promoter that enters into a~~
9 ~~contract with a mixed martial arts fighter in the state of California~~
10 ~~if the contract contains one or more coercive provisions. A contract~~
11 ~~provision shall be considered coercive to the extent that it does~~
12 ~~any of the following:~~

13 ~~(1) Assigns any future merchandising rights to a promoter~~
14 ~~beyond the term of the promotional contract.~~

15 ~~(2) Automatically renews the contract or extends the term~~
16 ~~without good faith, arms-length negotiation.~~

17 ~~(3) Grants the promoter a right to match the terms of a~~
18 ~~competing offer or contract.~~

19 ~~(4) Grants the promoter a right to enter into exclusive~~
20 ~~negotiations with a mixed martial arts fighter.~~

21 ~~(5) Restricts a mixed martial arts fighter from sponsoring another~~
22 ~~firm, product, or individual.~~

23 ~~(6) Requires a mixed martial arts fighter to relinquish any legal~~
24 ~~claims for negligence that the fighter has, or may acquire in the~~
25 ~~future, against the promoter.~~

26 ~~(7) Restricts a mixed martial arts fighter from contracting with~~
27 ~~another promoter.~~

28 ~~(8) Requires a mixed martial arts fighter to forfeit any rights as~~
29 ~~a condition precedent to the fighter's participation in a contest.~~

30 ~~(b) The commission shall revoke or refuse to renew the license~~
31 ~~of any promoter if it finds that the promoter, or any person or entity~~
32 ~~that is a partner, agent, employee, stockholder, or associate of the~~
33 ~~promoter, has been convicted of a felony or a misdemeanor~~
34 ~~involving moral turpitude in any jurisdiction; is currently the~~
35 ~~subject of a state or federal criminal investigation; has been subject~~
36 ~~to a state or federal tax lien within the past five years; has failed~~
37 ~~to respond to a subpoena issued by any government agency; has~~
38 ~~been found to have violated any local, state, or federal law; has~~
39 ~~been sanctioned by a local, state, or federal judge; or has been~~

1 ~~credibly alleged to have violated international human rights~~
2 ~~standards.~~

3 ~~(e) To ensure that individuals and entities licensed under this~~
4 ~~act observe common standards of decency, the commission shall,~~
5 ~~in consultation with the Association of Boxing Commissioners,~~
6 ~~establish a professional code of ethical conduct. Notwithstanding~~
7 ~~any other provision of this code, the commission shall enforce the~~
8 ~~code of ethical conduct.~~

9 ~~SEC. 2. Section 18849 of the Business and Professions Code~~
10 ~~is amended to read:~~

11 ~~18849. No promoter, nor any person having a proprietary~~
12 ~~interest in the promoter, shall have, either directly or indirectly,~~
13 ~~any proprietary interest in a boxer or martial arts fighter competing~~
14 ~~on the premises owned, leased, or rented by the promoter without~~
15 ~~written approval from the commission. No promoter shall be~~
16 ~~entitled to receive any compensation directly or indirectly in~~
17 ~~connection with a contest until the promoter provides to the~~
18 ~~commission the following:~~

19 ~~(a) A copy of any agreement in writing to which the promoter~~
20 ~~is a party with any professional athlete or contestant licensed under~~
21 ~~this act.~~

22 ~~(b) A statement made under penalty of perjury that there are no~~
23 ~~other agreements, written or oral, between the promoter and the~~
24 ~~athlete with respect to that contest.~~

25 ~~(c) All fees, charges, and expenses that will be assessed by or~~
26 ~~through the promoter on the athlete participating in the event,~~
27 ~~including any portion of the athlete's purse that the promoter will~~
28 ~~receive.~~

29 ~~(d) Any reduction in the athlete's purse contrary to a previous~~
30 ~~agreement between the promoter and the athlete.~~

31 ~~SEC. 3. Section 18880 of the Business and Professions Code~~
32 ~~is amended to read:~~

33 ~~18880. (a) The Legislature finds and declares all of the~~
34 ~~following:~~

35 ~~(1) That professional athletes licensed under this chapter, as a~~
36 ~~group, for many reasons, do not retain their earnings, and are often~~
37 ~~injured or destitute, or both, and unable to take proper care of~~
38 ~~themselves, whether financially or otherwise, and that the~~
39 ~~enactment of this article is to serve a public purpose by making~~

1 provisions for a needy group to insure a modicum of financial
2 security for professional athletes.

3 (2) Athletes licensed under this chapter may suffer extraordinary
4 disabilities in the normal course of their trade. These may include
5 acute and chronic traumatic brain injuries, resulting from multiple
6 concussions as well as from repeated exposure to a large number
7 of subconcussive punches, eye injuries, including retinal tears,
8 holes, and detachments, and other neurological impairments.

9 (3) The pension plan of the commission is part of the state's
10 health and safety regulatory scheme, designed to protect boxers
11 and mixed martial arts fighters licensed under this chapter from
12 the health-related hazards of their trade. The pension plan addresses
13 those health and safety needs, recognizing the disability and health
14 maintenance expenses those needs may require.

15 (4) The regulatory system of California is interrelated with the
16 conduct of the trade in every jurisdiction. Athletes licensed under
17 this chapter participate in contests in other states and many athletes
18 who are based in those other jurisdictions may participate in
19 California on a single-event basis.

20 (5) The outcomes and natures of fights in other jurisdictions are
21 relevant to California regulatory jurisdiction and are routinely
22 monitored for health and safety reasons, so that, for example, a
23 knockout of an athlete licensed under this chapter in another
24 jurisdiction is paid appropriate heed with respect to establishing
25 a waiting period before that athlete may commence fighting in
26 California.

27 (6) The monitoring of other jurisdictions is an integral part of
28 the health and safety of California athletes licensed under this
29 chapter due to the interstate nature of the trade, and therefore the
30 regulatory scheme for contests and athletes under this chapter
31 should reflect this accordingly.

32 (7) Some mixed martial arts promoters licensed under this
33 chapter engage in certain exploitative, oppressive, and coercive
34 contractual practices that violate athletes' freedom to work and
35 their ability to support themselves and their families as professional
36 athletes.

37 (8) It is necessary and appropriate to establish standards to
38 protect the rights and welfare of mixed martial arts fighters licensed
39 under this chapter from unscrupulous promoters and coercive
40 contractual practices.

1 ~~(b) The provisions of this article pertain only to professional~~
2 ~~boxers and mixed martial arts fighters licensed under this chapter.~~

3 ~~SEC. 4. Section 18881 of the Business and Professions Code~~
4 ~~is amended to read:~~

5 ~~18881. (a) The commission shall, consistent with the purposes~~
6 ~~of this article, establish a pension plan for professional boxers and~~
7 ~~professional mixed martial arts fighters who engage in boxing or~~
8 ~~mixed martial arts contests in this state.~~

9 ~~(b) The commission shall, consistent with the purposes of this~~
10 ~~article, establish the method by which the pension plan will be~~
11 ~~financed, including those who shall contribute to the financing of~~
12 ~~the pension plan. The method of financing the pension plan may~~
13 ~~include, but is not limited to, assessments on tickets and~~
14 ~~contributions by boxers, mixed martial arts fighters, managers,~~
15 ~~promoters, or any one or more of these persons, in an amount~~
16 ~~sufficient to finance the pension plan. Any promoter that receives~~
17 ~~a fee for televising a boxing or mixed martial arts contest~~
18 ~~performed in the State of California on a pay-per-view or network~~
19 ~~telecast shall pay 5 percent of the gross receipts from the telecast,~~
20 ~~exclusive of federal, state, or local taxes, into the Boxers' and~~
21 ~~Mixed Martial Arts Fighters' Pension Fund. For purposes of this~~
22 ~~section, the term "sufficient" means that the annual contributions~~
23 ~~shall be calculated to achieve no less than the average level of~~
24 ~~annual aggregate pension plan contributions from all sources for~~
25 ~~the period from July 1, 1981, through December 31, 1994, and~~
26 ~~adjusted thereafter to reflect changes in the Consumer Price Index~~
27 ~~for California as set forth by the Bureau of Labor Statistics.~~

28 ~~(c) Any pension plan established by the commission shall be~~
29 ~~actuarially sound.~~

30 ~~SEC. 5. Section 18882 of the Business and Professions Code~~
31 ~~is amended to read:~~

32 ~~18882. (a) At the time of payment of the fee required by~~
33 ~~Section 18824, a promoter shall pay to the commission all amounts~~
34 ~~scheduled for contribution to the pension plan. If the commission,~~
35 ~~in its discretion, requires pursuant to Section 18881, that~~
36 ~~contributions to the pension plan be made by the boxer or mixed~~
37 ~~martial arts fighter and his or her manager, those contributions~~
38 ~~shall be made at the time and in the manner prescribed by the~~
39 ~~commission.~~

1 ~~(b) The Boxers' Pension Fund is hereby continued in existence~~
2 ~~and renamed as the Boxers' and Mixed Martial Arts Fighters'~~
3 ~~Pension Fund. All contributions to finance the pension plan shall~~
4 ~~be deposited in the State Treasury and credited to the Boxers' and~~
5 ~~Mixed Martial Arts Fighters' Pension Fund. Notwithstanding the~~
6 ~~provisions of Section 13340 of the Government Code, all moneys~~
7 ~~in the Boxers' and Mixed Martial Arts Fighters' Pension Fund are~~
8 ~~hereby continuously appropriated to be used exclusively for the~~
9 ~~purposes and administration of the pension plan.~~

10 ~~(c) The Boxers' and Mixed Martial Arts Fighters' Pension Fund~~
11 ~~is a retirement fund, and no moneys within it shall be deposited~~
12 ~~or transferred to the General Fund.~~

13 ~~(d) The commission has exclusive control of all funds in the~~
14 ~~Boxers' and Mixed Martial Arts Fighters' Pension Fund. No~~
15 ~~transfer or disbursement in any amount from this fund shall be~~
16 ~~made except upon the authorization of the commission and for the~~
17 ~~purpose and administration of the pension plan.~~

18 ~~(e) Except as otherwise provided in this subdivision, the~~
19 ~~commission or its designee shall invest the money contained in~~
20 ~~the Boxers' and Mixed Martial Arts Fighters' Pension Fund~~
21 ~~according to the same standard of care as provided in Section~~
22 ~~16040 of the Probate Code. The commission has exclusive control~~
23 ~~over the investment of all moneys in the Boxers' and Mixed Martial~~
24 ~~Arts Fighters' Pension Fund. Except as otherwise prohibited or~~
25 ~~restricted by law, the commission may invest the moneys in the~~
26 ~~fund through the purchase, holding, or sale of any investment,~~
27 ~~financial instrument, or financial transaction that the commission~~
28 ~~in its informed opinion determines is prudent.~~

29 ~~(f) The administrative costs associated with investing, managing,~~
30 ~~and distributing the Boxers' and Mixed Martial Arts Fighters'~~
31 ~~Pension Fund shall be limited to no more than 20 percent of the~~
32 ~~average annual contribution made to the fund in the previous two~~
33 ~~years, not including any investment income derived from the corpus~~
34 ~~of the fund. Diligence shall be exercised by administrators in order~~
35 ~~to lower the fund's expense ratio as far below 20 percent as feasible~~
36 ~~and appropriate. The commission shall report to the Joint~~
37 ~~Committee on Boards, Commissions, and Consumer Protection~~
38 ~~on the impact of this provision during the next regularly scheduled~~
39 ~~sunset review after January 1, 2007.~~

1 ~~SEC. 6. Section 18884 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~18884. (a) A promoter may, but is not required to, add to the~~
4 ~~price of each ticket sold for a professional boxing or professional~~
5 ~~mixed martial arts contest, an amount specifically designated on~~
6 ~~the ticket for contribution as a donation, either or both, to the~~
7 ~~pension plan established pursuant to Section 18881. The additional~~
8 ~~amount shall not be subject to the admissions tax required by~~
9 ~~Section 18824 or any other deductions. Nothing in this section~~
10 ~~shall authorize the addition of such amounts to less than all the~~
11 ~~tickets sold for the professional boxing or professional mixed~~
12 ~~martial arts contest involved. The promoter shall pay additional~~
13 ~~contributions collected in accordance with Section 18881.~~

14 ~~(b) Any additional contributions received pursuant to this section~~
15 ~~shall not be considered to offset any of the contributions required~~
16 ~~by the commission under Section 18881.~~

17 ~~SEC. 7. Section 18887 of the Business and Professions Code~~
18 ~~is amended to read:~~

19 ~~18887. In addition to any other form in which retirement~~
20 ~~benefits may be distributed under the pension plan, the commission~~
21 ~~may, in its discretion, award to a covered boxer or a covered mixed~~
22 ~~martial arts fighter, a medical early retirement benefit in the amount~~
23 ~~contained in the covered boxer's or covered mixed martial arts~~
24 ~~fighter's pension plan account at the time the commission makes~~
25 ~~this award and in the manner provided in the regulations governing~~
26 ~~the boxers' and mixed martial arts fighters' pension plan. This~~
27 ~~benefit shall be in lieu of a pension.~~

28 ~~SEC. 8.~~

29 ~~SEC. 5. No reimbursement is required by this act pursuant to~~
30 ~~Section 6 of Article XIII B of the California Constitution because~~
31 ~~the only costs that may be incurred by a local agency or school~~
32 ~~district will be incurred because this act creates a new crime or~~
33 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
34 ~~for a crime or infraction, within the meaning of Section 17556 of~~
35 ~~the Government Code, or changes the definition of a crime within~~
36 ~~the meaning of Section 6 of Article XIII B of the California~~
37 ~~Constitution.~~

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